



U.S. Department of Justice

Office of Legal Policy

Washington, D.C. 20530

August 29, 1988

The Honorable Melvin R. Laird
Suite 212
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Dear Mr. Secretary:

The White House has asked me to respond to your letter concerning constitutional conventions under Article V of the Constitution.

Although reasonable arguments can be made -- and have been made -- on both sides, I think that a better reading of Article V supports the view that a constitutional convention can safely be limited to a single topic or several specific topics.

Article V provides that three-fourths of the states must ratify constitutional amendments proposed either by the Congress or by a constitutional convention. This is the ultimate and most important "check" on the amendment process. It is the safeguard against the dangers that you mention in your letter. It is not the only check, however. The Congress and the federal courts also play significant roles in policing the integrity of the convention process, in my view. In addition, American political customs should not be underestimated in their ability to provide additional enforcement of the propriety of the convention process. In a recent analysis published in the Journal of Law and Politics, political scientist Paul J. Weber concluded that there are so many political constraints in an Article V convention that it is, in fact, what he calls "a safe political option."

My office has completed a study of the convention method under Article V. I enclose a copy for your consideration. In closing, allow me to concede again that there are excellent arguments on both sides of this issue. Despite our differences, I greatly admire your views and your efforts to persuade others.

Sincerely,

Stephen Markman

Stephen J. Markman
Assistant Attorney General

Enclosure

